IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL REFERENCE NO. 5 OF 2004

Dr. D. K. Sonwane,
Metropolitan Magistrate,
31st Court, Vikhroli,
Mumbai. - - - Petitioner.

versus

Prakash Kakubhai Rangwala - Respondent

Ms. P. H. Kantharia, A.P.P. for for the Petitioner.

Respondent - Prakash Kakubahi Rangwala - present in person.

CORAM : F. I. REBELLO &
R. M. SAVANT, JJ.

Reserved for judgment on : 28th June 2007
Judgment pronounced on : 19th October 2007

JUDGMENT : [Per R.M. Savant, J.]

1. This is a reference made under Section 15(2) of the Contempt of Courts Act, 1971 against Shri Prakash Kakubhai Rangwala by Dr. D. K. Sonwane, learned Metropolitan Magistrate, 31st Court, Vikhroli, Mumbai. By his letter No. 35 of 2004 dated 25-11-2004, the Reference has been made in the following circumstances :-

. That the Respondent Prakash Kakubhai Rangwala is an accused in C.R.No.40 of 2004 registered with

Park Site Police Station for offences punishable under section 379 and 414 of the Indian Penal Code. The said Respondent filed a discharge application bearing No. 120/N/2004 in which the learned Magistrate sought the say of the police. Accordingly, the police filed their say. Thereafter, on 14-10-2004, the Respondent filed his written say wherein he has made certain contemptuous statements against the learned Metropolitan Magistrate. The learned Metropolitan Magistrate, therefore, issued a show cause notice to the Respondent and was called upon to appear before the said Court on 17-11-2004 to show cause why contempt proceedings should not be initiated against him by referring the matter to this Court under section 15(2) of the Contempt of Courts Act. On 17-11-2004, the Respondent appeared before the said Court and made an application for certified copies of certain documents and in the said application he has stated that he will forward his say by way of affidavit to the higher authority of the said Court. In view of the fact that he did not file any reply to the said show cause notice issued by the learned Magistrate, the learned Magistrate was of the view that the statements made by the Respondent against him prima facie amount to criminal contempt under Section 2(c)i) of the Contempt of Courts Act. It would be relevant to refer to

statements which, according to the learned Magistrate, amount to criminal contempt and on account of which a Reference has been made by the learned Magistrate to this Court under Section 15(2) of the Contempt of Courts Act are as follows :

> . " THE SCENARIO OF 31ST METROPOLITAN MAGISTRATE'S COURT ON 30TH SEPTEMBER, 2004 (THURSDAY) IMPLIES THAT IN THE CAPTION DISCHARGE APPLICATION TO MEET THE ENDOF JUSTICE IS NEITHER VISIBLE NOR POSSIBLE EXCEPT THE PRACTICABLE APPROACH MAY ADOPT BY HON'BLE METROPOLITAN MAGISTRATE DR. D.K. SONAWANE & IF DO NOT PREDILECTION TAKE PLACE SINCE CORRUPT AND MALPRACTICING POLICE OF PARK SITE POLICE STATION DELIBERATELY DELAYING IN FILING CHARGE SHEET EVEN AFTER THE SPAN OF 6.1/2 CALENDAR MONTHS"
>
> " What in any way the said Corrupt, Malpractising & Known Disloyal Senior Police Inspector & Incharge of Parksite Police Station Shri Vilas Arjun Shirke which inspired him to pass such Impugn Order as NO COMPLAIN OF ILL TREATMENT AT THE HANDS OF POLICE is in his - relation & that is why to save his skin impugn Order passed at the time of granting me bail??? Under the circumstances to meet the end of Justice is visible with the presiding METROPOLITAN MAGISTRATE Dr. D.K.SONAWANE???"
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> " The presiding Metropolitan Magistrate Dr.D.K. Sonawane has introspected that to issue IMPUGN SEARCH & SEIZE (ATTACH) WARRANT and the arrest of Shri Prakash Kakubhai Rangwala is a GREAT BLUNDER and as it's repent the said vehicle was handed over to the BONAFIDE PURCHASER Shri Sohansing Devising Rajput"
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> . " Till this day's attitude adopted by the presiding Metropolitan

> Magistrate Dr.D.K. Sonawane is totally evident embitter and away from the NATURAL JUSTICE"
>
> . " Then Why and What for presiding Metropolitan Magistrate Dr.D.K. Sonawane has abused the powers vested in him under the guise of Section 94 of Criminal Revision Procedure Code.

2. On the said Reference being made, notice came to be issued to the Respondent abovenamed and the Respondent was furnished with the necessary papers. The Respondent, pursuant to the notice received by him, filed an affidavit sometime in October 2006. In the said affidavit, the Respondent has made statements which have further aggravated the matter. The said statements are reproduced hereinunder for convenience sake -

> The said Petitioner took out SEARCH AND SEIZE (ATTACH) WARRANT Under Section 94 of Criminal Procedure Code in purely Civil Matter to get served His Monetary Interest.
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> All these facts and others are put up by me before the following personalities that too also 7 Months back/prior to Corrupt and Malpracticing Petitioner herein D. K. SAonawane issued Contempt proceedings against me to pressurised and/or Compell to - withdraw Complaints against him.
>
> I further say and submit that in the eyes of Law; such Corrupt and Malpracticing Officer (Petitioner herein D. K. Sonawane) of judiciary does not have any right to takeout

> Contempt of the Court proceeding since HE had diminish the High Rank or Estimation of Hon'ble Judiciary.

3. In view of the said affidavit and the stand taken by the Respondent pursuant to the notice issued to him, this Court framed the charges against him. After producing the statement on the basis of which the Reference was made by the learned Metropolitan Magistrate to this Court, the charge framed against the Respondent has been formulated thus :

> . The above statements amount to criminal contempt under Section 2(c)(i) of the Contempt of Courts Act.
>
> . These statements amount to scandalizing and lowers or tends to lower the authority of the Court. Thus, you have scandalized and lowered the authority of the Court and therefore you are guilty of committing criminal contempt of the Court. You are, therefore, liable for punishment under the Contempt of Courts Act, 1971.

In view of the charge framed against the Respondent, the Respondent was given an opportunity to file his affidavit-in-reply in respect to the said charge. The Respondent has filed his affidavit-in-reply in March 2007 in reply to the said charge. The said affidavit further aggravated the contempt committed by the Respondent. The Respondent has not shown any repentence for having made the statements attributed

to him but has tried to justify the said statements by making statements which, in our view, are highly contemptuous and further aggravate the contempt alleged against the Respondent. The said statements in the affidavit, which, according to our view, aggravate the contempt are reproduced hereinunder :

> 1). I say and submit that Applicant herein Shri D. K. Sonawane being presiding Metropolitan Magistrate has not approached this HON'BLE COURT WITH CLEAN HANDS.
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> I AVOUCHLY AND VERY FIRMLY SAY AND SUBMIT THAT IN ANY EVERY AND UNDER ANY CIRCUMSTANCES THE CRIME REPORT NUMBER 40 OF 2004 OF PARKSITE POLICE STATION, VIKROLI - WEST, BOMBAY - 400 083 DOES NOT FALLS UNDER THE PURVIEW OF CRIMINAL ACT AND/OR SECTION 379 AND 414 OF INDIAN PENAL CODE AS STATED BY THE APPLICANT SHRI D.K. SOAWANE. These facts itself explicit and established that How far Applicant herein Shri D.K. Sonawane is Liar, Corrupt and involved in Malpractices and Expert in Abusing Powers vested in him being presiding Officer of Judiciary, Hence to preserve the purity of the administration of justice; this matter must be refer to HON'BLE SHRI KONAKUPPAKATTIL GOPINATHAN BALKRISHNAN, HON'BLE CHIEF JUSTICE OF INDIA who is also HON'BLE CHAIRMAN OF NATIONAL JUDICIAL COUNCIL, SUPREME COURT, NEW DELHI. Following are the facts which are the Wrong Acts and Misdeeds committed by the Applicant Shri D. K. Sonawane being Presiding Officer in judiciary which corroborate to Hence please refer this matter to NATIONAL JUDICIAL COUNCIL.
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> Reliabily it was learnt that to Bluntly Connieve these facts only the applicant herein Shri D. K. Sonawane was given Rs.25,000/- (RUPEES TWENTY FIVE THOUSAND) as Bribe and accordingly the Applicant Shri D. K. Sonawane acted; What his

this Act is in the INTEREST OF NATURAL JUSTICE ? ? ?

When these facts were brought to the NOTICE OF LIAR, CORRUPT, INVOLVED IN MALPRACTICES AND EXPERT IN ABUSES OF POWERS VESTED IN THE APPLICANT SHRI D. K. SONAWANE, HE KEPT QUITE TILL THIS DAY INSTEAD OF INITIATING ENQUIRY BECAUSE HIS OWN COMPLICITY IS CLEARLY VISIBLE ? ? ?

AND SEIZED WARRANT UNDER SECTION 94 OF CRIMINAL PROCEDURE CODE for the sake of His Monetary Interest What in the light of the facts and in the eyes of Law such presiding Officer is eligible to propose/issue CONTEMPT OF THE COURT PROCEEDING ? ? ?

Even during my custody I have prepared an Application to the Applicant that M. E. C.R. that this matter is to be Enquire by any Magistrate whether in fact Crime Report is True Or NOT BUT that too also the Applicant herein has bluntly connieved these facts itself Explicit that the Applicant’s Own Hands are in Gloves with the Conspirators.

SO THIS HON’BLE COURT MUST INITIATE ACTIONS AGAINST THEM BUT TILL THIS DAY APPLICANT HEREIN SHRI D. K. SONAWANE DID NOT INITIATE ACTIONS SINCE HIS OWN COMPLICITY IS CLEARLY VISIBLE.

Hence in the Eyes of Law such Corrupt, involved in Malpractices and Expert in Abusing the Powers vested in Him has NO RIGHT TO PROPOSED AND/OR TO INITIATE ACTIONS UNDER THE CONTEMPT OF THE COURT. In the INTEREST OF NATURAL JUSTICE this matter must be refer to HON’BLE SHRI KONAKUPPAKATTIL GOPINATHAN BALKRISHNAN, HON’BLE CHIEF JUSTICE OF INDIA who is also HON’BLE CHAIRMAN, NATIONAL JUDICIAL COUNCIL, SUPREME COURT, NEW DELHI.

The said affidavit dated 28th March 2007 is replete

with such contemptuous statements some of which are reproduced hereinabove. This exemplifies the conduct of the Respondent. We have heard the Respondent. When we queried him as to whether he had to make any submission, he replied that all that he wants to say has been stated in the affidavit in reply filed pursuant to the charge framed against him. He submitted that the statements made in the said affidavit were justified and that he could substantiate the same.

. The learned Addl. Public Prosecutor appearing in the matter submitted that the statements on the basis of which the charge has been framed against the Respondent were themselves contemptuous and the Respondent by the statement made in his affidavits dated March 2006 and 28-3-2007 has further aggravated the said contempt. The learned Addl. Public Prosecutor submitted that in view of what has been submitted by the Respondent, the charge framed against the Respondent is proved and the Respondent, therefore, be dealt with under the Contempt of Courts Act.

4. We have considered the matter in the context of the Reference made by the learned Magistrate. The statements imputed to the Respondent, in our view,

has the effect of lowering the esteem of the Court as also scandalizing the Court. The said statements, in our view, come within the parameters of criminal contempt contemplated under Section 2(c)(i) of the Contempt of Courts Act, 1971. It is pertinent that the Respondent has not shown even an iota of remorse of regret. In fact, the Respondent has tried to justify the original statements on the basis of which charge was framed against him, as also the statements made in the affidavit filed in the above Reference. In our view, therefore, the charge is held to be proved against the Respondent on account of the statements imputed to him which have been made by him before the learned Metropolitan Magistrate as also the statements made in the affidavit filed in the above Reference which have aggravated the said contempt. The Respondent having shown no remorse or contrition, we are left with no alternative but to punish him. The Respondent, therefore, is punished and would have to undergo simple imprisonment of seven days. The Reference is accordingly disposed of.

(R.M. SAVANT, J.) **(F.I. REBELLO, J.)**

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